

SECURITY FOR PUBLIC DEPOSITS ACT

HANDBOOK



COMMONWEALTH OF VIRGINIA

TREASURY BOARD

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PREFACE

The 1973 Regular Session of the Virginia General Assembly enacted Chapter 23 of Title 2.1, *Code of Virginia* (1950), as amended, known as the Virginia Security for Public Deposits Act (“Act”). The Act substantially amended the procedure and method of securing public deposits. In October, 2001 the *Code of Virginia* was recodified placing the Virginia Security for Public Deposits Act under Chapter 44, Title 2.2 of the *Code of Virginia*.

Prior to passage of the Act, State deposits were required to be 100 percent collateralized pursuant to §2.1-211, et seq., and although several methods were available, the most generally used procedure required each bank holding State deposits to place with Federal Reserve Bank of Richmond or another bank securities of the character authorized as legal investments for public sinking funds in an amount equal to or greater than the amount of State funds on deposit, less the amount insured by the Federal Deposit Insurance Corporation (“FDIC”). Local public deposits of county funds were previously secured pursuant to §58-944, et seq., generally by similar deposit of securities with another bank as escrow agent. The county treasurer and finance board approved all collateral as well as substitutions and withdrawals thereof. City deposits were secured only as required by charter provisions, some charters having no security requirements and others containing provisions similar to those applicable to counties.

The Act adopted the concept of mutuality of responsibility, involving a cross guarantee among all banks holding public deposits. In the event of default of a bank having public funds on deposit, any uncollateralized and uninsured public deposits will be collected by assessments against each participating bank for its proportionate share of the loss based on the ratio that its average public deposits bears to the statewide average. To insure that the primary responsibility for security remains that of the bank holding public deposits, the Act requires that each depository bank must collateralize its public deposits to the extent of the greater of (1) fifty percent of the average daily balance for each month of all public deposits held by the depository during the preceding calendar months, or (2) fifty percent of the actual public deposits held at the close of business on the last banking day in the prior month.



GENERAL INFORMATION:

A. Background.

The Virginia Security for Public Deposits Act (the Act) *Code of Virginia*, §§2.2-4400 through 2.2-4411, creates a single body of law applicable to providing for the pledge of securities as collateral for public funds on deposit in financial institutions. The Act authorizes the Treasury Board to make and enforce regulations necessary and proper to carry out its responsibilities under the Act. Pursuant to this authority, the Treasury Board previously adopted Virginia Security for Public Deposits Act Regulations (1VAC 75-20).

Upon its effective date of January 1, 1974, the Security for Public Deposits Act superseded all other existing statutes concerning security for public deposits and established a single body of law to provide a procedure for securing such deposits that is uniform throughout the Commonwealth. The Act does not, of itself, require security for any public deposit, and thus the statutes previously existing continue in effect insofar as they require certain deposits to be secured. All deposits that are required to be secured, whether by statute, by charter provision, or by the custodian of the fund, must be secured pursuant to the Act. No alternate method of securing such deposits may be utilized.

All moneys deposited by the State Treasurer must be secured pursuant to §§2.2-1814 and 2.2-1815 of the *Code of Virginia*. All county and city moneys deposited by a county or city treasurer or other public depositor must be secured pursuant to §58.1-3158 of the *Code of Virginia*.

If security is not required by law, but the deposit is within the statutory definition of a public deposit, the treasurer or custodian of the moneys may elect to require security. If the amount of the deposit is less than the maximum amount of deposit insurance applicable, there is no need for the treasurer or custodian to require security because the financial institution will deduct the maximum amount of federal deposit insurance applicable to the account and secure only the excess which is not covered by the insurance. If the deposit exceeds the amount of insurance, the treasurer or custodian may decide that the deposit should be secured. In such event, the treasurer or custodian must communicate their election to the proper officer of the financial institution at the time a deposit is made. The financial institution may require the election to be manifested in writing on a form approved by the Treasury Board. A copy of the form will be retained by the depositor, financial institution, and the State Treasurer.

B. Definition of participants.

The three major participants in the scheme of activities required by the Act are defined as follows:

1. Qualified public depositories. Any national banking association, federal savings and loan association or federal savings bank located in Virginia and any bank, trust company or savings and loan association organized under Virginia law that receives or holds public deposits which are secured pursuant to the Act.
2. Treasurers or public depositors. The State Treasurer, a county, city, or town treasurer or director of finance or similar officer and the custodian of any other public deposits secured pursuant to the Act.

3. Treasury Board. The Treasury Board of the Commonwealth created by §2.2-2415 of the *Code of Virginia* consisting of the State Treasurer, the State Comptroller, the State Tax Commissioner and four citizen members appointed by the Governor.

C. Treasury Board duties, powers and responsibilities.

The Treasury Board is granted authority to make and enforce regulations necessary and proper to the full and complete performance of its functions under the Act pursuant to §2.2-4405. The Board may require additional collateral of any and all depositories, may determine within the statutory criteria what securities shall be acceptable as collateral, and may fix the percentage of face value or market value of such securities that can be used to secure public deposits. The Board may also require any public depository to furnish information concerning its public deposits and fix the terms and conditions under which public deposits may be received and held. In the event of a default or insolvency of a public depository holding public deposits, the Board may take such action, as it may deem advisable for the protection, collection, compromise or settlement of any claim.

D. Administration.

The Treasury Board has designated the State Treasurer to be the chief administrative officer with respect to the provisions of the Act. Inquiries and correspondence concerning the Act should be directed to:

Treasurer of Virginia-Treasury Board
P.O. Box 1879
Richmond, Virginia 23218-1879

E. Regulation Procedure.

The Treasury Board, pursuant to the authority granted by §2.2-4405(1) and (2) and in compliance with the Administrative Process Act, has promulgated regulations in the exercise of its administrative responsibilities. (See page 20, 1VAC 75-20, Virginia Security for Public Deposits Act Regulations, November 18, 1993.)

CODE OF VIRGINIA



CHAPTER 23

VIRGINIA SECURITY FOR PUBLIC DEPOSITS ACT

Sec:

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2.2-4406	Subrogation of Treasury Board to depositor's rights; payment of sums received from distribution of assets.
2.2-4407	Deposit of public funds in qualified public depository mandatory.
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2.2-4410	Liability of treasurers or public depositors.
2.2-4411	Reports of public depositories.



§2.2-4400 (Effective October 1, 2001) **Short title; declaration of intent; applicability.**

- A. This chapter may be cited as the “Virginia Security for Public Deposits Act.”
- B. The General Assembly intends by this chapter to establish a single body of law applicable to the pledge of security as collateral for public funds on deposit in financial institutions so that the procedure for securing public deposits may be uniform throughout the Commonwealth.
- C. All public deposits in qualified public depositories that are required to be secured by other provisions of law or by a public depositor shall be secured pursuant to this chapter.
- D. This chapter, however, shall not apply to deposits made by the State Treasurer in out-of-state financial institutions related to master custody and tri-party repurchase agreements, provided (i) such deposits do not exceed ten percent of average monthly investment balances and (ii) the out-of-state financial institutions used for this purpose have a short-term deposit rating of not less than A-1 by Standard & Poor’s Rating Service or P-1 by Moody’s Investors Service, Inc., respectively.

(1973, c. 172, §§ 2.1-359, 2.1-361; 1984, c. 135; 2000, cc. 335, 352; 2001, c. 844.)

Law Review. For survey of Virginia law on municipal corporations for the year 1972-73, see 59 Va. L. Rev. 1548 (1973).

§2.2-4401 Definitions. As used in this chapter, unless the context otherwise requires:

“Public deposit” means moneys of the Commonwealth or of any county, city, town or other political subdivision thereof, including moneys of any commission, institution, committee, board or officer of the foregoing and any state, circuit, county or municipal court, which moneys are deposited in any qualified public depository in any of the following types of accounts: nonnegotiable or registered time deposits, demand deposits, savings deposits, and any other transaction accounts, and security for such deposit is required by other provisions of law, or is required due to an election of the public depositor.

“Qualified public depository” means any national banking association, federal savings and loan association or federal savings bank located in Virginia and any bank, trust company or savings institution organized under Virginia law that receives or holds public deposits that are secured pursuant to this chapter.

“Default or insolvency” includes, but shall not be limited to, the failure or refusal of any qualified public depository to return any public deposit upon demand or at maturity and the issuance of an order of supervisory authority restraining such depository from making payments of deposit liabilities or the appointment of a receiver for such depository.

“Treasury Board” means the Treasury Board of the Commonwealth created by § 2.2-2415.

“Eligible collateral” means securities of the character authorized as legal investments under the laws of the Commonwealth for public sinking funds or other public funds and securities

acceptable under United States Treasury Department regulations as collateral for the security of treasury tax and loan accounts.

“Required collateral” of a qualified public depository means, (i) in the case of a bank, a sum equal to fifty percent of the actual public deposits held at the close of business on the last banking day in the month immediately preceding the date of any computation of such balance, or the average balance of all public deposits for such preceding month, whichever is greater, and (ii) in the case of a savings and loan association or savings bank, a sum equal to 100 percent of the average daily balance for the month immediately preceding the date of any computation of such balance of all public deposits held by such depository but shall not be less than 100 percent of the public deposits held by such depository at the close of business on the last banking day in such preceding month.

“Treasurer” and **“public depositor”** means the State Treasurer, a county, city, or town treasurer or director of finance or similar officer and the custodian of any other public deposits secured pursuant to this chapter.

(1973, c. 172, § 2.1-360; 1984, c. 135; 1987, c. 718; 1996, c. 77; 1998, cc. 20, 21; 2001, c. 844.)

The 1987 amendment, effective Apr. 8, 1987, rewrote subdivision (f).

Law Review. For survey of Virginia law on municipal corporations for the year 1972-73, see 59 Va. L. Rev. 1548 (1973).

§2.2-4402 Collateral for public deposits. Every qualified public depository shall deposit with the State Treasurer, or, with the approval of the Treasury Board, with the Federal Reserve Bank of Richmond or any other bank or trust company located within or without the Commonwealth, eligible collateral equal to or in excess of the required collateral of such depository to be held subject to the order of the Treasury Board.

Eligible collateral shall be valued as determined by the Treasury Board. Substitutions and withdrawals of eligible collateral may be made from time to time under regulations issued by the Treasury Board. Each qualified public depository shall, at the time of the deposit of eligible collateral, deliver to the State Treasurer a power of attorney authorizing him to transfer any registered securities deposited, or any part thereof, for the purpose of paying any of the liabilities provided for in this chapter.

Notwithstanding any other provisions of law, no depository shall be required to give bond or pledge securities in the manner herein provided for the purpose of securing deposits received or held in the trust department of the depository and that are secured as required by § 6.1-21 or that are secured pursuant to Title 12, § 92a of the United States Code by securities of the classes prescribed by § 6.1-21.

No qualified public depository shall accept or retain any public deposit that is required to be secured unless it has deposited eligible collateral equal to its required collateral with some proper depository pursuant to this chapter.

(1973, c. 172, § 2.1-362; 2001, c. 844.)

§2.2-4403 Procedure for payment of losses where depository is bank. When the Treasury Board is advised by any treasurer or otherwise determines that a default or insolvency has occurred with regard to a qualified public depository that is a bank, it shall as promptly as practicable make payment to the proper treasurer of all funds subject to such default or insolvency, pursuant to the following procedures:

1. The Treasury Board and the treasurer shall ascertain the amount of public funds on deposit with the qualified public depository in default or insolvent that are secured pursuant to this chapter, either with the cooperation of the Commissioner of Financial Institutions or receiver appointed for such depository or by any other means available, and the amount of deposit insurance applicable to such deposits.
2. The amount of such public deposits ascertained as provided in subdivision 1, net of applicable deposit insurance, shall be assessed by the Treasury Board first against the depository in default or insolvent to the extent of the full realizable current market value of the collateral deposited by it to secure its public deposits, and second, to the extent that such collateral is insufficient to satisfy the liability of the depository upon its deposits secured pursuant to this chapter against each of the other qualified public depositories according to the ratio that the average daily balance for each month of the secured public deposits held by the depository during the twelve calendar months immediately preceding the date of the default or insolvency with respect to which the assessment is made bears to the total average daily balance for each month of all secured public deposits held by all qualified public depositories that are banks, other than the defaulting depository, during those twelve calendar months.
3. Assessments made by the Treasury Board shall be payable on the second business day following demand, and in case of the failure of any qualified public depository to pay such assessment when due, the State Treasurer shall promptly take possession of the eligible collateral deposited with him or with the Federal Reserve Bank of Richmond or other bank or trust company pursuant to this chapter and liquidate the same to the extent necessary to pay such assessment and turn over such amounts received to the Treasury Board.
4. Upon receipt of such assessment, payments or the proceeds of the eligible collateral liquidated to pay such assessments from the State Treasurer, the Treasury Board shall reimburse the public depositors to the extent of the depository's deposit liability to them, net of any applicable deposit insurance.

Law Review. For survey of Virginia law on municipal corporations for the year 1972-73, see 59 Va. L. Rev. 1548 (1973).

§2.2-4404 Procedure for payment of losses where depository is savings bank or savings and loan association. When the Treasury Board is advised by any treasurer or otherwise determines that a default or insolvency has occurred with regard to a qualified public depository that is a savings bank or a savings and loan association, it shall as promptly as practicable make payment to the proper treasurer of all funds subject to such default or insolvency, pursuant to the following procedures:

1. The Treasury Board and the treasurer shall ascertain the amount of public funds on deposit with the qualified public depository in default or insolvent that are secured pursuant to this chapter,

either with the cooperation of the Commissioner of Financial Institutions or receiver appointed for such depository or by any other means available, and the amount of deposit insurance applicable to such deposits.

2. The amount of such public deposits ascertained as provided in subdivision 1 net of applicable deposit insurance, shall be assessed by the Treasury Board against the depository in default or insolvent. The State Treasurer shall promptly take possession of such of the eligible collateral deposited by such depository with him, or with any other depository pursuant to this chapter, as is necessary to satisfy the assessment of the Treasury Board and shall liquidate the same and turn over the proceeds thereof to the Treasury Board.
3. Upon receipt from the State Treasurer of the payments or proceeds of the eligible collateral liquidated to pay such assessments from the State Treasurer, the Treasury Board shall reimburse the public depositors to the extent of the depository's deposit liability to them, net of any applicable deposit insurance.

(1984, c. 135, § 2.1-363.1; 2001, c. 844.)

§2.2-4405 Powers of Treasury Board relating to the administration of this chapter.
The Treasury Board shall have power to:

1. Make and enforce regulations necessary and proper to the full and complete performance of its functions under this chapter;
2. Prescribe regulations fixing terms and conditions consistent with this chapter under which public deposits may be received and held;
3. Require such additional collateral, in excess of the required collateral of any qualified public depository, of any and all such depositories as it may determine prudent under the circumstances;
4. Determine what securities shall be acceptable as eligible collateral, and to fix the percentage of face value or market value of such securities that can be used to secure public deposits;
5. Require any qualified public depository to furnish such information concerning its public deposits; and
6. Determine when a default or insolvency has occurred and to take such action as it may deem advisable for the protection, collection, compromise or settlement of any claim arising in case of default or insolvency.

(1973, c. 172, § 2.1-364; 2001, c. 844.)

Law Review. For survey of Virginia law on municipal corporations for the year 1972-73, see 59 Va. L. Rev. 1548 (1973).

§2.2-4406 Subrogation of Treasury Board to depositor's rights; payment of sums received from distribution of assets. Upon payment in full to any public depositor, the Treasury Board shall be subrogated to all of such depositor's rights, title and interest against the

depository in default or insolvent and shall share in any distribution of its assets ratably with other depositors. Any sums received from any such distribution shall be paid to the other qualified public depositories against which assessments were made, in proportion to such assessments, net of any proper expense of the Treasury Board in enforcing any such claim.

(1973, c. 172, § 2.1-365; 2001, c. 844.)

Law Review. For survey of Virginia law on municipal corporations for the year 1972-73, see 59 Va. L. Rev. 1548 (1973).

§2.2-4407 Deposit of public funds in qualified public depository mandatory. No public deposit that is required to be secured pursuant to this chapter shall be made except in a qualified public depository.

(1973, c. 172, § 2.1-366; 2001, c. 844.)

§2.2-4408 Authority to deposit public funds.

- A. All treasurers and public depositors are hereby authorized to deposit funds under their control in qualified public depositories securing public deposits pursuant to this chapter.
- B. Local officials handling public funds in the Commonwealth may not require from a depository institution any pledge of collateral for their deposits in such institution which is in excess of the requirements of this chapter.

(1973, c. 172, § 2.1-367; 1980, c. 538, § 2.1-234.5; 1998, cc. 20, 21; 2001, c. 844.)

§2.2-4409 Authority to secure public deposits; acceptance of liabilities and duties by public depositories. All institutions located in the Commonwealth that are permitted to hold and receive public deposits are hereby authorized to secure such deposits in accordance with this chapter.

Any institution accepting a public deposit that is required to be secured pursuant to this chapter shall be deemed to have accepted the liabilities and duties imposed upon it pursuant to this chapter with respect to the deposit.

(1973, c. 172, § 2.1-368; 2001, c. 844.)

Law Review. For survey of Virginia law on municipal corporations for the year 1972-73, see 59 Va. L. Rev. 1548 (1973).

§2.2-4410 Liability of treasurers or public depositors. When deposits are made in accordance with this chapter no treasurer or public depositor shall be liable for any loss thereof resulting from the failure or default of any depository in the absence of negligence, malfeasance, misfeasance, or nonfeasance on his part or on the part of his assistants or employees.

(1973, c. 172, § 2.1-370; 2001, c. 844.)

Law Review. For survey of Virginia law on municipal corporations for the year 1972-73, see 59 Va. L. Rev. 1548 (1973).

§2.2-4411 Reports of public depositories. Within ten days after the end of each calendar month or when requested by the Treasury Board each qualified public depository shall submit to the Treasury Board a written report, under oath, indicating (i) the total amount of public deposits held by it at the close of business on the last banking day in the month, (ii) the average daily balance for the month of all secured public deposits held by it during the month, (iii) a detailed schedule of pledged collateral at its current asset value for purposes of collateral at the close of business on the last banking day in the month, and (iv) any other information with respect to its secured public deposits that may be required by the Treasury Board.

Each qualified public depository shall also furnish at the same time to each public depositor for which it holds deposits and that makes a written request therefor a schedule of the secured public deposits to the credit of such depositor as of the close of business on the last banking day in the month and the total amount of all secured public deposits held by it upon such date.

(1973, c. 172, § 2.1-369; 1979, c. 154; 2001, c. 844.)

VIRGINIA SECURITY FOR PUBLIC DEPOSITS ACT REGULATIONS



DEPARTMENT OF THE TREASURY (THE TREASURY BOARD)

Title of Regulation: 1VAC 75-20 **Virginia Security for Public Deposits Act Regulations.**

Statutory Authority: § 2.2-4400 *et seq.* of the *Code of Virginia*.

Effective Date: November 18, 1993

Summary of Public Comment and Agency Response: A summary of comments made by the public and the agency's response may be obtained from the promulgating agency or viewed at the office of the Registrar of Regulations.

Agency Contact: Copies of the regulation may be obtained from Robert S. Young, Director of Financial Policy, Department of the Treasury, 101 North 14th Street, 3rd Floor, Richmond, VA 23219, telephone (804) 225-2142. There may be a charge for copies.

Summary:

The following regulations are necessary to provide adequate protection for public funds on deposit in financial institutions under the Virginia Security for Public Deposits Act (§2.2-4400 *et seq.* of the *Code of Virginia*).

The amendment to §10 clarifies the duties and responsibilities of the State Treasurer and financial institutions under the Act. The amendment to §70 defines current market value and clarifies the responsibility of the qualified public depository to maintain sufficient collateral in relation to current deposits. The amendment to §80 requires a depository's Board of Directors to approve the "Public Deposit Security Agreement" executed among itself, the Treasury Board, and its eligible escrow agent, with such approval being reflected in the minutes of the Depository's Board of Director's meeting and maintained as an official record. The amendment to §90 requires escrow agents, at the time of a collateral substitution, to calculate adjustments to market value of collateral identified as "difficult-to-value" or "subject to rapid declines in value," as determined by the State Treasurer. The amendment to §100 defines current public deposits. The amendment to §110 requires financial institutions to have an independent certified public accountant or its internal audit department certify annually that public deposits reported to the State Treasurer under the Act are accurately reported. The new §130 reinforces the authority of the Treasury Board to enact policy guidelines should qualified public depositories fail to comply with the provisions of the Act or regulations. The new §140 establishes criteria for the selection of escrow agents by public depositories and outlines the responsibilities of the State Treasurer and public depositories to ensure adherence to these criteria. Other changes to the regulations and the accompanying forms are either clarifying or cosmetic in nature or necessary to conform with statutory changes.

In review of all comments from interested parties, the following changes were incorporated into the final regulations; eliminated the requirement to report average daily market value of collateral on the monthly depository report; changed the requirement for only having an independent certified public accounting firm (CPA) certify annual public deposits to include having a CPA or the financial institutions internal audit department; returned the statement of ten business days for reporting purposes; and changed the requirement for execution of new agreements from merger, acquisition, or name change to name change only.

§10. General.

The definitions provided by §2.2-4401 of the *Code of Virginia* shall be used throughout this chapter unless the context requires otherwise.

The Treasury Board has designated the State Treasurer to be the chief administrative officer with respect to the provisions of the Virginia Security for Public Deposits Act (the “Act”) (§2.2-4400 et seq. of the *Code of Virginia*) and the State Treasurer reserves the right to designate a representative to act on his behalf.

The primary responsibility for compliance with the Act rests upon the financial institutions that accept and hold public deposits. If the deposit is a “public deposit,” the deposit must be secured pursuant to the Act. If a depositor is unable to ascertain whether a particular deposit is a “public deposit” for purposes of the Act, he should obtain the essential details and communicate with the State Treasurer’s office by the use of a notice of election form.

Statutory Authority	§2.2-4405 of the <i>Code of Virginia</i> .
Historical Notes	Derived from VR640-02 §1; eff. November 18, 1993.

§20. Effective date.

This chapter, as amended, shall be effective on and after November 18, 1993.

Statutory Authority	§2.2-4405 of the <i>Code of Virginia</i> .
Historical Notes	Derived from VR640-02 §2; eff. November 18, 1993.

§30. Required collateral for banks.

The required collateral of a national or state chartered bank to secure public deposits shall be determined according to the following applicable criteria and shall consist of securities qualifying as eligible collateral pursuant to these regulations which have a value for collateralization purposes not less than:

1. **Fifty percent.** Fifty percent of the actual public deposits held at the close of business on the last banking day of the immediately preceding month, or 50% of the average balance of public deposits for the immediately preceding month, whichever is greater;
2. **Seventy-five percent.** In the event a bank’s average daily public deposits for the immediately preceding month exceed one-fifth of its average daily total deposits, the required collateral will be 75% of the actual public deposits held at the close of business on the last banking day of the immediately preceding month, or 75% of the average balance of public deposits for the immediately preceding month, whichever is greater;

3. **One hundred percent.** In the event a bank's average daily public deposits for the immediately preceding month exceed one-fifth of its average daily total deposits and the bank has not been actively engaged in the commercial banking business for at least three years, or in the event that a bank's average daily public deposits for the immediately preceding month exceed one-third of its average daily total deposits, or in the event that a bank has not been actively engaged in the commercial banking business for at least one year, the required collateral will be 100% of the actual public deposits held at the close of business on the last banking day of the immediately preceding month, or 100% of the average balance of public deposits for the immediately preceding month, whichever is greater.

In the event a bank has violated the pledging statutes and regulations or for other reasons deemed sufficient, such as the financial condition of the bank or the reasons referred to in 1VAC75-20-130, the Treasury Board may increase the bank's ratio of required collateral to 100% of its actual public deposits.

Statutory Authority	§2.2-4405 of the <i>Code of Virginia</i> .
Historical Notes	Derived from VR640-02 §3; eff. November 18, 1993.
Cross References	Value of collateral at current market value for reporting purposes, 1VAC75-20-70.
Valuation of collateral by public depository, 1VAC75-20-80.	

§40. Required collateral for savings institutions.

The required collateral of a savings institution to secure public deposits shall consist of securities qualifying as eligible collateral pursuant to these regulations which have a value, for collateralization purposes, not less than a sum equal to 100% of the average daily balance of public deposits held by such savings institution for the immediately preceding month, but shall not be less than 100% of the public deposits held by such savings institution at the close of business on the last banking day of the immediately preceding month.

In the event that a savings institution has violated the pledging statutes and regulations, or for other reasons deemed sufficient, such as the financial condition of the savings institution or the reasons referred to in 1VAC75-20-130, the Treasury Board may increase such savings institution's ratio of required collateral above 100% of its actual public deposits.

Statutory Authority	§2.2-4405 of the <i>Code of Virginia</i> .
Historical Notes	Derived from VR640-02 §4; eff. November 18, 1993.
Cross References	Value of collateral at current market value for reporting purposes, 1VAC75-20-70.

§50. Average daily balance computation.

The average daily balance for any month shall be derived by dividing the sum of the daily balances of any item being computed by the number of calendar days in the month.

In computing the amount of public deposits and the average balance of public deposits to be collateralized during any month, there shall be excluded the amount of each deposit which is insured by federal deposit insurance.

Statutory Authority
Historical Notes

§2.2-4405 of the *Code of Virginia*.
Derived from VR640-02 §5; eff. November 18, 1993.

§60. Eligible collateral.

A. Securities eligible for collateral are limited to:

1. Obligations of the Commonwealth. Bonds, notes and other evidences of indebtedness of the Commonwealth of Virginia, and securities unconditionally guaranteed as to the payment of principal and interest by the Commonwealth of Virginia.
2. Obligations of the United States. Bonds, notes and other obligations of the United States, and securities unconditionally guaranteed as to the payment of principal and interest by the United States, or any agency thereof.
3. Obligations of Virginia counties, cities, etc. Bonds, notes and other evidences of indebtedness of any county, city, town, district, authority or other public body of the Commonwealth of Virginia upon which there is no default provided that such bonds, notes and other evidences of indebtedness of any county, city, town, district, authority or other public body are either direct legal obligations of, or unconditionally guaranteed as to the payment of principal and interest by, the county, city, town, district, authority or other public body in question and revenue bonds issued by agencies or authorities of the State of Virginia or its political subdivisions upon which there is no default and which are rated BBB or better by Moody's Investors Service, Inc. or Standard & Poor's Corporation.
4. Obligations of the International Bank for Reconstruction and Development, African Development Bank, and Asian Development Bank. Bonds and other obligations issued, guaranteed, or assumed by the International Bank for Reconstruction and Development by the African Development Bank, or by the Asian Development Bank.
5. Obligations partially insured or guaranteed by any U.S. Government Agency.
6. Obligations (including revenue bonds) of states, other than Virginia, and their municipalities or political subdivisions rated A or better by Moody's Investors Services, Inc. or Standard & Poor's Corporation.
7. Corporate Notes rated AA by both Moody's Investors Services, Inc. and Standard & Poor's Corporation with a maximum maturity of 10 years.

8. Any additional securities approved by the Treasury Board pursuant to §2.2-4405(d) for which written notification to qualified public depositories from the State Treasurer will be provided.

B. No security which is in default as to principal or interest shall be acceptable as collateral.

C. No qualified public depository shall utilize securities issued by itself, its holding company, or any affiliate for purposes of collateralizing its public deposits.

Securities excluded by action of the Treasury Board pursuant to §2.2-4405(d) of the *Code of Virginia* shall not be acceptable. Written notification of securities excluded will be provided to qualified public depositories by the State Treasurer.

Statutory Authority	§2.2-4405 of the <i>Code of Virginia</i> .
Historical Notes	Derived from VR640-02 §6; eff. November 18, 1993.
Cross References	Criteria for selection of escrow agents by State Treasurer, 1VAC75-20-140.

§70. Valuation of collateral.

Each qualified public depository shall value its securities for reporting purposes at current market value as of the close of business on the last banking day of the immediately preceding month. At all times the current market value of collateral must be equal to or greater than a depository's required collateral as defined in §§30, 40 and 80 of this chapter. Current market value is defined as the market value of a security priced on a same day basis or no older than one business day. Business day is defined as the close of a commercial business at 5 p.m.

The State Treasurer, upon written notice to any or all qualified public depositories and eligible escrow agents, may require as deemed necessary for reporting purposes that certain securities that are difficult-to-value or subject to rapid declines in value or otherwise represent a risk of decrease in value be valued at a rate less than 100% of their market value.

Statutory Authority	§2.2-4405 of the <i>Code of Virginia</i> .
Historical Notes	Derived from VR640-02 §7; eff. November 18, 1993.
Cross References	Substitution of eligible collateral by public depository, 1VAC75-20-90.

§80. Deposit of collateral.

No qualified public depository shall accept or retain any public deposit which is required to be secured unless it has previously executed a "Public Deposit Security Agreement," approved by the depository's Board of Directors or Loan Committee, with such approval reflected in the minutes of said board or committee. The depository shall maintain the security agreement as an official record continuously from the time of its execution. The depository must also have deposited eligible collateral, as defined in these regulations; equal to its required collateral, determined as herein provided, with an eligible escrow agent approved by the State Treasurer. Each depository is responsible for providing a written notification and executing new agreements upon its name change.

Whether or not a qualified public depository has eligible collateral deposited as heretofore provided at the time it receives a public deposit, if such deposit would result in an increase in the qualified public depository's required collateral computed as of the day on which the deposit is received, such qualified public depository shall immediately deposit sufficient securities to

increase its collateral to an amount equal to that determined pursuant to §30 or §40, whichever is applicable, utilizing the qualified public depository's actual public deposits held at the close of business on the banking day such deposit is received in lieu of those held at the close of business on the last banking day in the immediately preceding month. Banking day is defined as the financial institution's close of business at 2 p.m. Written notice of deposit of collateral shall be submitted to the State Treasurer.

At the time of the deposit of registered securities, the qualified public depository owning the securities shall attach appropriate bond power forms as required to allow the State Treasurer to transfer ownership of such registered securities for the purpose of satisfying the qualified public depository's liabilities under the Act in the event the collateral needs to be liquidated.

Statutory Authority	§2.2-4405 of the <i>Code of Virginia</i> .
Historical Notes	Derived from VR640-02 §8; eff. November 18, 1993.
Cross References	Value of collateral at current market value for reporting purposes, 1VAC75-20-70

§90. Substitution of eligible collateral.

A substitution of eligible collateral may be made by the qualified public depository at any time provided that the current market value of the collateral substituted is equal to or greater than the current market value of the collateral withdrawn.

At the time of making a collateral substitution, the qualified public depository shall prepare a request for the substitution upon a form approved by the State Treasurer and deliver the original to the escrow agent and a copy to the State Treasurer. The escrow agent shall not allow a collateral substitution unless the current market value of the collateral to be substituted is equal to or greater than the current market value of the collateral to be withdrawn. Current market value for the escrow agent in regards to a substitution is the market value of a security priced on a same day basis or no older than one business day prior to the date of the substitution. The escrow agent shall calculate adjustments to the current market value of collateral that the State Treasurer has identified as difficult-to-value or subject to rapid declines in value or otherwise represents a risk of decrease in value at the time of substitution to determine if the market value is equal to or greater than the value of the collateral to be withdrawn in accordance with §70.

In the event the current market value of the substituted collateral is not equal to or greater than the value of the collateral to be withdrawn as determined in accordance with §70, the qualified public depository shall obtain written approval of the State Treasurer to substitute the collateral.

Statutory Authority	§2.2-4405 of the <i>Code of Virginia</i> .
Historical Notes	Derived from VR640-02 §9; eff. November 18, 1993.
Cross References	Criteria for selection of escrow agents by State Treasurer, 1VAC75-20-140.

§100. Withdrawal of collateral.

A qualified public depository shall not be permitted to withdraw collateral previously pledged without the prior written approval of the State Treasurer. The State Treasurer may grant such approval only if the qualified public depository certifies in writing that such withdrawal will not reduce the current market value of its pledged collateral below its required collateral as defined by these regulations, and this certification is substantiated by a statement reporting the qualified public depository's current public deposits which indicates that after withdrawal such deposits will continue to be secured to the full extent required by the law and regulations. Current public deposits are defined as the amount of public deposits held at the time of withdrawal of collateral. If a qualified public depository cannot determine the amount of current public deposits when collateral is to be withdrawn, the depository shall request an exception to this provision from the State Treasurer stating why the depository cannot comply and how it intends to determine the current public deposit balance under this provision. The request for exception must be in writing and formally approved by the State Treasurer. The escrow agent shall not permit the qualified public depository to withdraw collateral without the written approval of the State Treasurer.

Statutory Authority	§2.2-4405 of the <i>Code of Virginia</i> .
Historical Notes	Derived from VR640-02 §10; eff. November 18, 1993.
Cross References	Criteria for selection of escrow agents by State Treasurer, 1VAC75-20-140.

§110. Reports by qualified public depositories.

Within 10 business days after the end of every month, each qualified public depository shall submit to the State Treasurer a written report, under oath, signed by an authorized officer of the financial institution indicating the total amount of public deposits held by it at the close of business on the last banking day in the immediately preceding month; the average daily balance for such month of all public deposits held by it during the immediately preceding month; the average balance of all bank deposits for the immediately preceding month; the total required collateral; the total par value and the total current market value of collateral for the immediately preceding month. Included with this report shall be a detailed schedule of pledged collateral to include, but not limited to, the security description, coupon rate, CUSIP (Committee on Uniform Securities Identification Procedures) number, maturity date, debt rating by Moody's Investors Services, Inc. or Standard & Poor's Corporation, par value amount, book or principal value amount and current market value amount, determined pursuant to §70.

At the request of any public depositor for which it holds deposits, within 10 business days after the end of any month, the qualified public depository shall submit a statement indicating the total public deposits in each account to the credit of such depositor on the last banking day in the immediately preceding month and the total amount of all public deposits held by it upon such date.

Within the first 10 business days of each calendar quarter, every qualified public depository shall submit to the State Treasurer a report indicating the account number, type of account, amount of federal deposit insurance applied, total amount on deposit and total amount on deposit to be secured by its pledged collateral or a combined listing containing the same information as an attachment to the "Public Depository Monthly Report" as of the close of business on the last banking day of the calendar quarter being reported. At the same time every qualified public depository shall submit to each public depositor for whom it holds public deposits, a report

indicating the account number, type of account, and total account amount to be secured by its pledged collateral.

With the submission of the “Public Depository Monthly Report” to the State Treasurer for the month ending on June 30, qualified public depositories shall attach an annual certification from an independent certified public accountant or their internal audit department, attesting to the accuracy of the public deposit balances reported to the State Treasurer during their previous fiscal year.

Statutory Authority	§2.2-4405 of the <i>Code of Virginia</i> .
Historical Notes	Derived from VR640-02 §11; eff. November 18, 1993.
Cross References	Notice to State Treasurer by public depositors of unresolved discrepancies, 1VAC75-20-160

§120. Reports by State Treasurer.

The State Treasurer shall report to the auditors of any public depositor, upon their written request, the status of any qualified public depository’s collateral account and its compliance with the reporting requirements of the Act. The State Treasurer shall notify any public depositor that maintains accounts with any bank or savings institution of any irregularities including, but not limited to, the late filing of the required monthly reports or deficiencies in the qualified public depository’s eligible collateral at any time. The Treasury Board shall be notified of the sending of any reports of irregularities required herein no later than at its next regularly scheduled meeting.

Statutory Authority	§2.2-4405 of the <i>Code of Virginia</i> .
Historical Notes	Derived from VR640-02 §12; eff. November 18, 1993

§130. Compliance requirements.

Pursuant to the power granted under §2.2-4405 of the *Code of Virginia*, the Treasury Board may establish criteria for determining the continued eligibility of public depositories to accept public deposits. By formal request, any depository may receive a copy of the approved policy enacted by the Treasury Board. The State Treasurer shall notify public depositors of any policy irregularity regarding their depository.

Statutory Authority	§2.2-4405 of the <i>Code of Virginia</i> .
Historical Notes	Derived from VR640-02 §13; eff. November 18, 1993.
Cross References	Required collateral of savings institution to secure public deposits, 1VAC75-20-40.

§140. Criteria for the selection of escrow agents.

Pursuant to the powers granted to the Treasury Board by §2.2-4405 of the Code of Virginia, the State Treasurer has determined that the selection of an escrow agent or agents is consistent with administration of the Act and the State Treasurer shall define all escrow agent criteria under an agreement labeled “Public Deposit Security Agreement” to be signed and sealed by an authorized officer for the escrow agent, depository and State Treasurer. A depository may have no more than one escrow agreement in effect at any given time period. Each depository and escrow agent is responsible for providing a written notification and executing new agreements upon their name change. Every qualified public depository shall comply with this section within 60 days of the effective date of this chapter.

An escrow agent selected by a qualified public depository for the purpose of holding collateral pledged to the Treasury Board under the Act must meet the following requirements:

1. The escrow agent must sign a “Public Deposit Security Agreement,” which shall also be signed by the depository and the State Treasurer, acting on behalf of the Treasury Board.
2. The escrow agent shall hold in a separate account for the Treasury Board eligible collateral pledged under the provisions of the Act and, if acting as escrow for more than one public depository, the collateral must be accounted for in a manner that will allow separate reporting by account and public depository. The escrow agent shall hold the eligible collateral in a section of the institution which is separate from daily activities performed by that institution such as its trust department and be held accountable by the regulatory requirements of such department.
3. The escrow agent shall be an independent entity in the performance of its duties on behalf of the Treasury Board. The escrow agent may not be the depository itself, its holding company, or any affiliate of the depository.
4. The escrow agent must be able to ascertain whether pledged collateral is eligible in accordance with §60. The escrow agent shall distribute all interest, dividends, or other income for the pledged securities to the depository and shall be payable thereto provided the escrow agent has not received written notice from the Treasury Board that the depository is in a condition of “default or insolvency” as defined in the Act, in which event the escrow agent shall hold such income subject to the order of the Treasury Board.
5. The escrow agent shall allow the Treasury Board to examine pledged securities held as collateral at any time, upon 24-hour notice, during the regular business hours of the escrow agent without cost to the Treasury Board. Upon notification from the Treasury Board of the “default or insolvency” of a depository, the escrow agent shall deliver the pledged securities to the Treasury Board for disposition as provided in the Act, and take a receipt thereof, which shall relieve the escrow agent from any further liability to the depository.
6. The escrow agent shall price securities held as collateral at a current market value no older than one business day from the date of a substitution of collateral and from the close of business on the last banking day of the month for monthly reporting purposes.

7. The escrow agent shall adhere to the reporting requirements as detailed in the “Public Deposit Security Agreement.”
8. The escrow agent shall allow substitutions in accordance with §90.
9. The escrow agent shall ensure that withdrawals of collateral will be in accordance with §100.

The State Treasurer, acting on behalf of the Treasury Board, will determine that an escrow agent can meet the criteria established under this section prior to executing the “Public Deposit Security Agreement.” The State Treasurer may request information from an escrow agent to substantiate its ability to meet the aforementioned criteria.

In the event an escrow agent violates the requirements of the “Public Deposit Security Agreement,” the State Treasurer shall notify the escrow agent and applicable public depositories of the violation and require the escrow agent to comply with all terms of the agreement. The escrow agent must provide the State Treasurer and public depositories a written statement, within 30 days of the notification, outlining how and when the violations will be remedied. This statement must be acceptable to the State Treasurer, who will monitor adherence to it. If the escrow agent fails to provide a statement or adhere to it or violates the agreement three times within a two-year period, the State Treasurer will classify such an escrow agent as “disqualified” as an escrow agent under the provisions of the Act and notify all parties. Qualified public depositories shall have 90 days to select a new escrow agent after such a disqualification.

In the event an escrow agent is classified as “disqualified,” the term of suspension shall be for one year from the date of disqualification. After “disqualification,” an escrow agent must request from the Treasury Board approval to be reinstated as an eligible escrow agent.

Statutory Authority	§2.2-4405 of the <i>Code of Virginia</i> .
Historical Notes	Derived from VR640-02 §14; eff. November 18, 1993

§150. Suspension of authority to receive public deposits.

For failure to comply with the Act or the regulations, the Treasury Board may rescind the authority of a qualified public depository to receive further public deposits in accordance with §130. A depository that continues to hold public deposits after its authority to do so has been rescinded remains fully subject to the provisions of the Act. This includes, without limitation, continuing to meet collateralization and reporting requirements and acting as a qualified public depository for purposes of §§2.2-4403 and 2.2-4404 of the Act.

Statutory Authority	§2.2-4405 of the <i>Code of Virginia</i> .
Historical Notes	Derived from VR640-02 §15; eff. November 18, 1993.

§160. Exception reports by public depositors.

Upon receipt of the quarterly public depositor report, as stated in §110, public depositors shall notify the State Treasurer of any unresolved discrepancy between the information provided and the public depositors records.

Statutory Authority
Historical Notes
FORMS

§2.2-4405 of the *Code of Virginia*.
Derived from VR640-02 §16; eff. November 18, 1993.
Public Deposit Security Agreement (and relevant exhibits), # 1001.
Notice of Election to Require Security for Public Deposit, # 1004



**INSTRUCTIONS AND REPORTING
FOR QUALIFIED PUBLIC DEPOSITORIES**



REPORTING PROCEDURES FOR QUALIFIED PUBLIC DEPOSITORIES

I. Public Deposit Security Agreements

- A. The Depository completes three (3) copies of the “Public Deposit Security Agreement” (Form No. 1001) and forwards all three (3) copies to its choice of Escrow Agent. (*Exhibit 1*) The Escrow Agent signs and forwards three (3) copies to the Depository. The Depository will forward all three (3) copies to the following address:

Department of the Treasury - Treasury Board
Post Office Box 1879
Richmond, VA 23218-1879

Upon receipt of the Agreement from the Depository, the State Treasurer will execute the Agreement for the Treasury Board. The State Treasurer’s office will retain one copy and return remaining copies to the Depository for distribution.

- B. The Depository will provide the Treasury Board with a certified copy of the resolution of its Board of Directors or Loan Committee approving the Agreement and a certified copy of the minutes of the meeting in which the Agreement was approved. These items must accompany the three (3) copies of the agreement. The Depository will maintain the agreement and any transactions under this agreement as an official record within the meaning of §1823 (e) of Title 12 of the United States Code, as amended, continuously from the time of its execution.
- C. These requirements are applicable to new Depositories and to Depository or Escrow Agent name changes.

II. Reports

- A. Within ten (10) business days after the end of the preceding month the Depository shall submit to the State Treasurer a *Public Depository Monthly Report*. This report is written under oath. See “Instructions for the Preparation of Public Depository Monthly Report” at *Exhibit 3*.
- B. Within ten (10) business days after the end of each calendar quarter (March, June, September and December), the Depository shall submit to the State Treasurer a report listing the names of all public depositors, account numbers, amounts and FDIC (Federal Deposit Insurance Corporation) deductions for which it holds secured public deposits at the end of the quarter. The Depository shall send to each public depositor a letter listing account name, number, and amount of each deposit held as of the close of business on the last day of the quarter. (*Exhibit 4*)
- C. At the request of any public depositor for which it holds public deposits, within ten (10) business days after the end of each calendar month, the Depository shall submit a statement indicating the total secured public deposits in each account to the credit of such depositor on the last business day in the month and the total amount of all secured public deposits held by it on that date.

III. Deposits, Substitution and Withdrawals of Collateral

- A. The Depository may not deposit pledged collateral with any Escrow Agent unless the “Public Deposit Security Agreement” (*Exhibit 1*) has been executed by all parties. The Depository shall at the time of deposit send the correct form (*Exhibit 6*) to the State Treasurer and the Escrow Agent notifying them of the deposit.
- B. When the Depository wishes to substitute pledged collateral, it shall send the correct form (*Exhibit 7*) to the State Treasurer and the Escrow Agent. A substitution may only be made when the current market value of the collateral to be substituted is equal to or greater than the current market value of the collateral to be withdrawn. The Depository shall calculate adjustments to the current market value of collateral that the State Treasurer has identified as difficult-to-value or subject to rapid declines in value or otherwise represents a risk of decrease in value at the time of substitution to determine if the market value is equal to or greater than the value of the collateral to be withdrawn in accordance with §70 of the regulations.
- C. The Depository or the Escrow Agent are not permitted to withdraw pledged collateral without the approval of the State Treasurer. The Depository must send the State Treasurer the following information:
 - A letter requesting withdrawal of collateral (*Exhibit 5*) or the Depository may send a facsimile in lieu of the letter.
 - The certification letter (*Exhibit 5*) must be submitted with the withdrawal letter stating the current public deposit total and current market value after the withdrawal has been completed. If a Depository cannot determine the amount of current public deposits, the depository shall request an exception to this provision from the State Treasurer stating why the depository cannot comply and how it intends to determine the current public deposit balance under this provision. The request must be in writing and formally approved by the State Treasurer.
 - The current market value of the collateral must be determined in accordance with the requirements of §70 of the Regulations. This section states that current market value is the market value of a security priced on a same day basis or no older than one business day. The current value of public deposits should be the same date the market value of the collateral is determined. If the values provided are not within these guidelines, the request will not be approved.

If the withdrawal is approved, the State Treasurer will execute and disburse one copy to the Depository, one copy to the Escrow Agent and retain one copy.

INSTRUCTIONS FOR THE PREPARATION OF THE PUBLIC DEPOSITORY MONTHLY REPORT

The following is detailed *instructions for* preparation of the Public Depository Monthly Report (PDMR)(*Exhibit 3*):

Item (1)

Total of All Public Deposits on _____ * _____:

Note:

Each public official (custodian) is a separate account. FDIC (Federal Deposit Insurance Corporation) is an amount of \$1.00 to \$100,000. Any balance over \$100,000 will need to be included in the total. (FDIC 330.8 (a) defines public accounts and 330.8 (b) explains a Bond Payment Account if a fiduciary account.) Zero balance occurs only if total amount is less than or equal to \$100,000.

Demand:

Total of the demand deposit account balance.

Time/Savings:

Total of the certificate of deposit and savings account balance.

Less FDIC:

Total amount deducted for FDIC enter on report.

Net:

Total. (Needs to equal the grand total line on Exhibit 4)

Item (2)

Average Daily Balance of Public Deposits net FDIC for Month Ending:

_____ * _____:

Note:

During the month, daily Demand and Time/Savings deposits fluctuate for each public deposit. The sum of all the daily totals for each type of deposit account divided by the number of calendar days in the month provides the average daily demand or time deposit balance for the month. This average is then reduced by the appropriate FDIC amount (use the stated amount in Item I *under less* FDIC"). If the FDIC deductible amount is different, please reflect the different amount on the form.

Demand:

Add the daily totals of the demand accounts, divide by the number of calendar days then subtract FDIC amount and enter on report.

Time/Savings:

Add the daily totals of the Time/Savings accounts, divide by the number of calendar days then subtract FDIC amount and enter on report.

Average Daily Balance of Public Deposits Net FDIC:

Combine Demand and Time/Savings totals and enter on report. *(This total will be used again In Item 4 of this report.)*

Item (3)

Average Daily Deposits:

This figure is the sum of all the daily totals of all the bank's deposits (*commercial, individual, and public*) to be divided by the number of calendar days in the month. **(DO NOT DEDUCT FDIC)**

Item (4)

Percentage of Item 2 to Item 3:

This percentage is obtained by dividing the Item 2 total entry by the Item 3 entry; enter the percentage obtained on this line. Be sure to extend decimal places to reflect the correct percentage. If the percentage is less than 20%, enter 50% in Item 5 for the calculation of required collateral (*except banks less than one (1) year old and Savings and Loans, which should be 100%*). If the percentage is more than 20%, refer to §30 of the Regulations to obtain the proper percentage to be used in Item 5. If you have been notified in writing from the State Treasurer of an increase in required collateral percentage, use this percentage until further notification.

Item (5)

Required collateral:

Multiply the larger total (*Item 1 or Item 2*) by the required percent (50%, 75%, 100% or 110%) from Item 4 and enter the result on the report.

Item (6)

Pledged Collateral, month ending: _____ * _____:

From Schedule A: Par Value: \$ _____:

Current Market Value: \$ _____

Using the total from the listing of collateral pledged (*Schedule A*) enter the total of original par value. If the list of collateral includes any pass-through securities such as GNMA pools, Freddie Mac pools, FNMA pools, Agency Remic's, or Agency Corporate Mortgage obligations, enter the amortized par value instead of the original par value (*which is the principal balance remaining on the asset at this current time period or often referred to as the book value*). The current market value is the total current asset value of collateral pledged; less 20% on all pass-through securities referred to above.

COMMENTS:

At month-end sufficient collateral should have been previously pledged at current market value to cover fluctuations. If the current market value is less than the required collateral of Item 5, action should be taken immediately to pledge additional collateral to the Treasury Board account with the Escrow Agent. (*Exhibit 6*) The Exhibit 3 form should reflect the undercollateralized status for the current month-end reporting period. Do not include any current collateral pledged for prior month end reporting at this time. If additional collateral has been pledged to cover undercollateralization of this reporting period, you should attach a copy of the deposit form letter (*Exhibit 6*) to your PDMR and write a memorandum to this office (State Treasurer) for the reason this violation occurred.

Certification:

Make sure the report (PDMR) is signed and notarized before submission.

Month Ending is the last banking day of the month being reported.

Tips:

1. Attach the *Schedule A* report to the *Exhibit 3* report **monthly**.
2. In the event Items 1, 2, or 5 result in a “0” (zero) total, a monthly report is still required by the Virginia Security for Public Deposits Act.
(*Submit all the required forms on a quarterly basis.*)
3. Reports are due within **10 (ten)** banking days following the end of each calendar month being reported.
4. Quarterly attach a *listing of public depositors* or *the individual letters to the public depositors*, to the Exhibit 3 and Schedule A reports. Within **10 (ten)** banking days following the end of each calendar quarter, submit to each public depositor a list of their account names, numbers, and balances of their custodian accounts.
5. Before submitting the report, review your Schedule A list for any pledged collateral maturing before the next report. At this time originate the withdrawal of collateral or substitution form letter, whichever is appropriate, and mail separately. (*Exhibit 5 and 7*)



**CRITERIA AND REPORTING PROCEDURES
FOR ESCROW AGENTS**



QUALIFICATION AND REPORTING PROCEDURES FOR ELIGIBLE ESCROW AGENTS

I. Criteria for the selection of escrow agents.

Pursuant to the powers granted to the Treasury Board by §2.2-4402 of the *Code of Virginia*, the State Treasurer has determined that the selection of an escrow agent or agents is consistent with administration of the Act and the State Treasurer shall define all escrow agent criteria under an agreement labeled “Public Deposit Security Agreement” to be signed and sealed by an authorized officer for the escrow agent, depository and State Treasurer. A depository may have no more than one escrow agreement in effect at any given time period. Each depository and escrow agent is responsible for providing a written notification and executing new agreements upon its name change. Every qualified public depository shall comply with §140 within sixty (60) days of the effective date of the regulations.

An escrow agent selected by a qualified public depository for the purpose of holding collateral pledged to the Treasury Board under the Act must meet the following requirements:

- A. The escrow agent must sign a “Public Deposit Security Agreement,” which shall also be signed by the depository and the State Treasurer, acting on behalf of the Treasury Board.
- B. The escrow agent shall hold in a separate account for the Treasury Board eligible collateral pledged under the provisions of the Act and, if acting as escrow for more than one public depository, the collateral must be accounted for in a manner that will allow separate reporting by account and public depository. The escrow agent shall hold the eligible collateral in a section of the institution which is separate from daily activities performed by that institution such as its trust department and be held accountable by the regulatory requirements of such department.
- C. The escrow agent shall be an independent entity in the performance of its duties on behalf of the Treasury Board. The escrow agent may not be the depository itself, its holding company, or any affiliate of the depository
- D. The escrow agent must be able to ascertain whether pledged collateral is eligible in accordance with §60 of the regulations. The escrow agent shall distribute all interest, dividends, or other income for the pledged securities to the depository and shall be payable thereto provided the escrow agent has not received written notice from the Treasury Board that the depository is in a condition of “default or insolvency” as defined in the Act, in which event the escrow agent shall hold such income subject to the order of the Treasury Board.
- E. The escrow agent shall allow the Treasury Board to examine pledged securities held as collateral at any time, upon 24-hour notice, during the regular business hours of the escrow agent without cost to the Treasury Board. Upon notification from the Treasury Board of the “default or insolvency” of a depository, the escrow agent shall deliver the pledged securities to the Treasury Board for disposition as provided in the Act, and take a receipt thereof, which shall relieve the escrow agent from any further liability to the depository.

- F. The escrow agent shall price securities held as collateral at a current market value no older than one business day from the date of a substitution of collateral and from the close of business on the last banking day of the month for monthly reporting purposes.
- G. The escrow agent shall adhere to the reporting requirements as detailed in the “Public Deposit Security Agreement.”
- H. The escrow agent shall allow substitutions in accordance with §90 of the regulations.
- I. The escrow agent shall ensure that withdrawals of collateral will be in accordance with §100 of the regulations.

The State Treasurer, acting on behalf of the Treasury Board, will determine that an escrow agent is able to meet the criteria established under this section prior to executing the “Public Deposit Security Agreement.” The State Treasurer may request information from an escrow agent to substantiate its ability to meet the aforementioned criteria.

In the event an escrow agent violates the requirements of the “Public Deposit Security Agreement,” the State Treasurer shall notify the escrow agent and applicable public depositories of the violation and require the escrow agent to comply with all terms of the agreement. The escrow agent must provide the State Treasurer and public depositories a written statement, within thirty (30) days of the notification, outlining how and when the violations will be remedied. This statement must be acceptable to the State Treasurer, who will monitor adherence to it. If the escrow agent fails to provide a statement or adhere to it or violates the agreement three times within a two-year period, the State Treasurer will classify such an escrow agent as “disqualified” as an escrow agent under the provisions of the Act and notify all parties. Qualified public depositories shall have ninety (90) days to select a new escrow agent after such a disqualification.

In the event an escrow agent is classified as “disqualified,” the term of suspension shall be for one year from the date of disqualification. After “disqualification,” an escrow agent must request from the Treasury Board approval to be reinstated as an eligible escrow agent.

II. Public Deposit Security Agreement

- A. The Depository completes three (3) copies of the “Public Deposits Security Agreement” (Form No. 1001) (*Exhibit 1*) and forwards all three (3) copies to the Escrow Agent chosen. The Escrow Agent shall sign and forward all three (3) copies to the Depository.

Upon receipt of the agreement from the Depository, the State Treasurer will execute the agreement for the Treasury Board. The State Treasurer’s office will retain one copy and return remaining copies to the Depository for distribution.

III. Reports

- A. Within eight (8) days after the end of the preceding month the Escrow Agent shall submit to the State Treasurer a *Monthly Report* containing the following information: the Depository's full name, address and account number; acknowledgement that the collateral is pledged to the Board; information concerning each security, including full description, CUSIP number (if available), coupon rate, maturity date, original par value, book value of pooled securities, and current market value of each security; and the total of the original par value, book value, and current market value of all securities held as collateral.
- B. The Escrow Agent will confirm in writing to the Treasury Board and the Depository all deposits, substitutions and withdrawals at the time of their acceptance. This confirmation shall include the Depository's full name, address, account number, full description of security, CUSIP number (if available), coupon rate, maturity date, original par value or book value of pooled securities and current market value. The confirmation shall also include the debt rating by Standard and Poors, Inc., or Moody's Investors Service, Inc., (if applicable) in accordance with §60 of the regulations for any deposit or substitution of collateral.
- C. The Escrow Agent shall provide written notification to the Treasury Board of any name change and execute a new agreement at that time.

IV. Deposits, Substitutions and Withdrawals of Collateral

- A. The Escrow Agent may not *deposit* pledged collateral with any Depository and Treasury Board account unless the "Public Deposit Security Agreement" (*Exhibit 1*) has been entered into by all parties. The Depository shall at the time of a deposit send the correct form (*Exhibit 6*) to the State Treasurer and the Escrow Agent notifying these offices of its deposit.
- B. When the Depository wishes to *substitute* pledged collateral, he shall send the correct form (*Exhibit 7*) to the State Treasurer and the Escrow Agent. A substitution may only be made when the current market value of the collateral to be substituted is equal to or greater than the current market value of the collateral to be withdrawn. The Escrow Agent shall calculate adjustments to the current market value of collateral that the State Treasurer has identified as difficult-to-value or subject to rapid declines in value or which otherwise represents a risk of decrease in value at the time of substitution to determine if the market value is equal to or greater than the value of the collateral to be withdrawn in accordance with §70 of the regulations.
- C. The Escrow Agent ***is not permitted to withdraw*** pledged collateral without the approval of the state Treasurer.

If the withdrawal is approved, the State Treasurer will execute and disburse one copy of the approval to the Depository, one copy to the Escrow Agent and retain one copy.



COMPLIANCE REQUIREMENT GUIDELINES

Refer to the Virginia Security for Public Deposits Act Regulations under §130 *Compliance requirements* and §150 *Suspension of authority to receive public deposits*.



COMPLIANCE REQUIREMENTS

The following guidelines were proposed and accepted at the June 14, 1989, Treasury Board meeting in regard to noncompliance with the requirements of the Virginia Security for Public Deposits Act Regulations:

Non-receipt of Public Depository Monthly Report

The Public Depository Monthly Report is due within ten (10) business days after the last business day of the preceding month. A late notice is mailed to any depository, which has not submitted its report during this time frame. The late notice notifies the depository that if its report is not received within 5 business days of the date of the letter, it will be classified as “unqualified-no report received” in the monthly report to local treasurers.

Undercollateralization

When a depository’s monthly report indicates that it is undercollateralized, the Security for Public Deposits Accountant will notify the depository by telephone of the deficiency and discuss what action will be taken to rectify the situation. This telephone call will be followed by a letter stating the amount of undercollateralization and asking for additional collateral to be pledged to the Treasury Board account.

Reprimanding Action for Non-Reporting and Under Collateralization

If during any 12-month period a public depository fails to comply with either of the aforementioned regulations, it will result in the following actions:

First Violation:

Telephone call will be made to the depository with a letter to immediately follow. Public depositors will be notified via monthly local treasurer’s report.

Second Violation:

Same as for first violation except that the letter will be written for the State Treasurer’s signature and it will indicate the seriousness of any further violations.

Third Violation:

The depository will be notified of the problem, the public depositors of the institution will be notified of the recurring deficiency, state deposits may be restricted at the financial institution and/or an increase the percentage of the required collateral may result or such other action as the Board deems appropriate. A letter from the State Treasurer will notify the financial institution of action taken by the Treasury Board.



DEPARTMENT OF THE TREASURY CONTACTS

Thelma L. Ingle (804) 371-6009
Agency Accounting Manager

Kristin A. Reiter (804) 225-3240
Director of Operations

Tracey L. Edwards (804) 371-6008
Trust Accounting Manager

FAX Numbers: (804) 225-2076



EXHIBITS OR FORMS



**PUBLIC DEPOSIT SECURITY AGREEMENT
To Secure Public Deposits Pursuant to the
Virginia Security for Public Deposits Act**

This Agreement made as of the ____ day of _____, _____, by and among the TREASURY BOARD OF THE COMMONWEALTH OF VIRGINIA (hereinafter the "Board"), _____ of _____, _____ (hereinafter "Depository"), and _____ of _____, _____, (hereinafter "Escrow Agent"), is for the provision of banking and escrow services, as further defined below.

WHEREAS, the Virginia Security for Public Deposits Act, §§ 2.2-4400 through 2.2-4411 of the Code of Virginia (the "Act"), as amended, requires "qualified public depositories" to deposit "eligible collateral" equal to the "required collateral," all as defined in the Act, with an escrow agent approved by the Board; and

WHEREAS, the regulations promulgated by the Board pursuant to the Act, 1 VAC 75-20-10 through 1 VAC 75-20-160 (the "Regulations") require all qualified public depositories and escrow agents to execute a "Public Deposit Security Agreement," which sets forth procedures for the pledge and deposit of eligible collateral;

NOW, THEREFORE, in consideration of the premises and mutual promises herein contained, the parties have agreed and do hereby enter into this Agreement in accordance with the Act and the Regulations:

1. The Board represents to the Depository and the Escrow Agent that (a) the Board consists of the State Treasurer, the State Comptroller, the State Tax Commissioner, and four citizen members appointed by the Governor; and (b) the Board is duly authorized to enter into this Agreement.

2. The Depository and the Escrow Agent represent to the Board that (a) they have read and understand the Act and the Regulations promulgated thereunder and agree to comply with all provisions thereof; (b) they are duly authorized to execute this Agreement and to perform their obligations hereunder and have taken all necessary action to authorize such execution and performance; (c) the persons signing this Agreement on their behalf are duly authorized to do so; and (d) the execution and performance of this Agreement will not violate any law, ordinance, charter, by-law or rule applicable to them or any agreement by which they are bound or by which any of their assets are affected.

3. The Depository represents and warrants to the Board that (a) the Depository is and will be at all times while this agreement is in effect a "qualified public depository" as defined in the Act; (b) at no time will the Depository allow the market value of its collateral pledged hereunder to be less than its "required collateral" as defined by the Act; (c) all securities deposited with the Escrow Agent hereunder are, and will be, eligible for securing public deposits pursuant to § 6 of the Regulations, 1 VAC 75-20-60; (d) all "eligible collateral" pledged to the Board will be free from any lien or encumbrance; (e) the Depository's board of directors will approve this Agreement, reflect its approval in the minutes of the board, and will supply the Board with a certified copy of the resolution and a certified copy of the minutes of the meeting showing the directors' acceptance of the terms and conditions of this Agreement within 60 days of the date of this Agreement; and (f) the Depository will maintain this Agreement and any transaction under this Agreement as an official record within the meaning of § 1823 (e) of Title 12 of the United States Code, as amended, continuously from the time of its execution.

4. The Depository, in return for the privilege of holding public deposits and in accordance with the Act, and intending to be legally bound, hereby grants to the Board, as a secured party, a security interest pursuant to the Uniform Commercial Code (§§ 8.1-101 through 8.11-108 of the Code of Virginia, as amended) in all "eligible collateral" deposited with the Escrow Agent and pledged as collateral for the public deposits held by the Depository pursuant to the Act and the Regulations, and any substitutions therefore in accordance with § 9 of the

Regulations, 1 VAC 75-20-90. The Depository will ensure that the Board's security interest is perfected by transferring the collateral securities to the Escrow Agent in accordance with one of the methods prescribed by § 8.8-313(1) (a) through (j) of the Code of Virginia.

5. The Escrow Agent acknowledges the receipt of pledged securities and will segregate such pledged securities from other securities, if any, held by it for the account of the Depository.

6. The Escrow Agent shall permit the Depository to substitute securities for those held at the time of the substitution if the current market value of the securities to be substituted is equal to or greater than the current market value of the securities to be withdrawn.

7. The Escrow Agent shall not permit the Depository to withdraw pledged securities without the prior approval of the Board except in cases of a substitution in accordance with the preceding paragraph.

8. All interest, dividends, or other income from the pledged securities shall be the property of the Depository and shall be payable thereto provided the Escrow Agent has not received written notice from the Board that the Depository is in a condition of "default or insolvency" as defined in the Act, in which event the Escrow Agent shall hold such income subject to the order of the Board.

9. The Escrow Agent shall, upon notification of the default or insolvency of the Depository by the Board, deliver the pledged securities to the Board for disposition as provided in the Act, and take a receipt therefor, which shall relieve the Escrow Agent from any further liability to the Depository.

10. The Board shall have the right to examine the pledged securities at any time during the regular business hours of the Escrow Agent without cost to the Board.

11. The Escrow Agent will have no responsibility for ascertaining whether the Depository's pledged "eligible collateral" is equal to its "required collateral."

12. The Escrow Agent will mail monthly reports to the Board and the Depository no later than the eighth day following the end of the preceding month. The Escrow Agent will include the following information in the monthly report: the Depository's full name, address and account number; acknowledgement that the collateral is pledged to the Board; information concerning each security, including full description, cusip number (if available), coupon rate, maturity date, original par value, book value of pooled securities, and current market value of each security; and the total of the original par value, book value, and current market value of all securities held as collateral. The Escrow Agent will confirm in writing to the Board and the Depository all deposits, substitutions and withdrawals at the time of their acceptance. This confirmation shall include the Depository's full name, address, account number, full description of the security, cusip number (if available), coupon rate, maturity date, original par value or book value of pooled securities and current market value. The confirmation shall also include the debt rating by Standard and Poors, Inc. or Moody's Investors Service, Inc. (if applicable) in accordance with § 6 of the Regulations, 1 VAC 75-20-60, for any deposit or substitution of collateral.

13. Each Depository and Escrow Agent will provide written notification to the Board upon any name change, and will execute a new Agreement to reflect its changed status within a reasonable time, not to exceed 30 days, following the change.

14. The Depository and the Escrow Agent will each have such reasonable contracts of insurance covering the physical eligible collateral which it holds or will hold for the Board as are customarily made with respect to property of a similar nature held by financial institutions.

15. Neither the Depository nor the Escrow Agent will assign this Agreement or enter into sub-contracts for any work described herein without obtaining the prior written approval of the Board.

16. This Agreement, the Act, and the Regulations constitute the entire agreement among the parties, supersede any existing agreement among the parties hereto relative to the matters contained herein, and may be modified only by written amendment executed by all parties hereto. Any party to this Agreement may terminate its participation under this Agreement for any reason by giving written notification of termination to all other parties. Termination becomes effective thirty days after the date the non-terminating parties receive such written notice of termination. The Escrow Agent shall prior to the date of termination, transfer all eligible collateral it holds pursuant to this Agreement either to an eligible Escrow Agent designated by the Depository or, if the Depository fails to make such a designation, to the Board.

17. This Agreement will be governed by the laws of the Commonwealth of Virginia and any dispute shall be litigated in the courts of the Commonwealth of Virginia.

18. When any written notice, request, demand or report is required or may be given hereunder, it will be deemed sufficient if the party giving such notice, request, demand, or other advice deliver the same to the other party by U. S. mail, postage prepaid, or by other superior mailing, or by hand delivery. All notices, requests, demands or reports delivered by mail or by hand will be deemed to have been given when received by any party hereto at the following addresses:

Depository: Such office or mailing address as stated on the Notification of Address Form attached hereto.

Escrow Agent: Such office or mailing address as stated on the Notification of Address Form attached hereto.

Board:	<u>Office address:</u> Department of the Treasury Monroe Building, 3 rd Floor Richmond, VA 23219 Attn: Treasury Board	<u>Mailing address:</u> Department of the Treasury Post Office Box 1879 Richmond, VA 23218-1879 Attn: Treasury Board
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or to such other addresses of which any party hereto has notified the other parties hereto in writing.

19. This Agreement will be executed in triplicate by the parties hereto, each of which will retain one original hereof.

IN WITNESS WHEREOF, the parties hereto have by their duly authorized representatives executed this Agreement under seal as of the date first above written.

TREASURY BOARD OF THE COMMONWEALTH OF VIRGINIA

BY: _____
Authorized Officer _____ Date _____

Name: _____
Title: _____

QUALIFIED PUBLIC DEPOSITORY

(Name of Financial Institution) (SEAL) _____
Date _____

BY: _____
Authorized Officer _____ Attest: _____
Name: _____ Name: _____
Title: _____ Title: _____

ESCROW AGENT

(Name of Institution) (SEAL) _____
Date _____

BY: _____
Authorized Officer _____ Attest: _____
Name: _____ Name: _____
Title: _____ Title: _____

NOTIFICATION OF ADDRESS
(DEPOSITORY)

Office address:

Mailing address:

NOTICATION OF ADDRESS
(ESCROW AGENT)

Office address:

Mailing address:

EXHIBIT 3

PUBLIC DEPOSITORY MONTHLY REPORT

TO: The Treasury Board, Commonwealth of Virginia
P. O. Box 1879
Richmond, Virginia 23218-1879

FROM: _____

1) Total All Public Deposits on _____
(Month Ending)

Demand: \$ _____
Time/Savings: \$ _____

TOTAL: \$ _____

Less FDIC \$ _____
NET: \$ _____

2) Average Daily Balance All Public Accounts:

Demand: \$ _____
Time/Savings: \$ _____
Less FDIC \$ _____

TOTAL: \$ _____

3) Average Daily Total Deposits (Includes all deposits of
Financial Institution) \$ _____

4) Percentage of Item 2 to Item 3 above: \$ _____

5) Required Collateral: _____ % of the larger (1) or (2) above: \$ _____

6) Pledged Collateral current month ending:

From Schedule A: Original Par Value \$ _____
or Book Value for Pooled Securities

Current Market Value \$ _____
or Adjusted Current Market if Pooled Securities

I hereby certify that the foregoing information and attachments are true and correct to the best of my knowledge and belief, and that at no time during the month has the financial institution's pledged collateral been less than its required collateral.

FINANCIAL INSTITUTION: _____

Signature: _____ Title: _____

State of Virginia, _____ of _____

The foregoing officer acknowledged under oath before me, a Notary Public in and for the State and city/county aforesaid, that the statements and amounts herein are correct and true to the best of his/her knowledge and belief, this _____ day of _____

Commission expires: _____
(Notary Public)

EXHIBIT 4

(DEPOSITORY LETTERHEAD)

The Treasury Board
Commonwealth of Virginia
P. O. Box 1879
Richmond, Virginia 23218-1879

Gentlemen:

Listed below are the Public Depositors for whom

(Depository Institution)

held secured public deposits as of the close of business for month ending _____
(Date)

<u>NAME OF PUBLIC DEPOSITOR</u>	<u>TYPE OF ACCOUNT AND NUMBER</u>	<u>TOTAL AMT</u>	<u>FDIC INSURED</u>	<u>NET BALANCE</u>
	DEMAND			
Customer A	DDA 4000001	\$ 2,000		
	DDA 5000001	200,000	\$ 100,000	\$ 102,000
	TIME/SAVINGS			
Customer A	COD 3000001	200,000	100,000	100,000
	DEMAND			
Customer B	DDA 6000001	5,000		
	DDA 6000002	400,000	\$ 100,000	\$ 305,000
	TIME/SAVINGS			
Customer B	COD 7000001	17,000		
	COD 7000002	200,000	100,000	<u>17,000</u>
	GRAND TOTAL			<u>\$ 524,000</u>

(Line 1 of Public Depository Monthly Report)

*Can be a computer printout generated by the institutions system, or each individual letter sent to each public depositor.

SCHEDULE "A"
Listing of Collateral Pledged to Treasury Board

Detailed schedule of pledged collateral at its current market value, determined in accordance with the market value as of the close of business on the last banking day in the preceding month, as of _____.
(date)

Attach list, or describe, giving the following information:

<u>Original</u> <u>Par Value</u>	<u>Book Value</u>	<u>Description</u>	<u>CUSIP #</u>	<u>Coupon</u>	<u>Maturity</u>	<u>Current</u> <u>Market Value</u>	<u>Debt Rating</u> <u>(if applicable)</u>
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Total of original
Par Value

\$ _____

Total of
Book Value

\$ _____

Total of Current
Market Value

\$ _____

Original Par Value or Book Value is to be listed on Exhibit 3.

Less 20% Adjustment: { _____ }
for pooled securities or agency CMO's
Total Current Market Value: _____
to be listed on Exhibit 3

EXHIBIT 5

(DEPOSITORY LETTERHEAD)

WITHDRAWAL OF COLLATERAL
“Certification Letter”

The Treasury Board
Commonwealth of Virginia
P. O. Box 1879
Richmond, Virginia 23218-1879

Gentlemen:

Enclosed are the original and two copies of our letter to _____
(Escrow agent)
requesting a withdrawal of collateral.

The following data is submitted for your information:

Total Current Public Deposits on: _____ \$ _____
(Date)

Pledged collateral:

Current Market Value on: _____ \$ _____
(Date)

Current Market Value on
Collateral remaining after withdrawal \$ _____
(Including 20% adjustment when appropriate)

Please indicate your approval by signing the original and sending it to the escrow agent, and retain one copy for your records.

Sincerely,

(Depository Institution)

EXHIBIT 5 (Continued)
(DEPOSITORY LETTERHEAD)
WITHDRAWAL OF COLLATERAL

TO: _____
 (Escrow Agent)

You hold in the account entitled _____, as escrow agent
 (Account Name)
for the Treasury Board of the Commonwealth of Virginia to secure public deposits with
_____ the following securities:
 (Depository)

Original Par Value	Description	Coupon	Maturity Date	Current Market Value <i>(@ 80% if appropriate)</i>
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Please release these securities from the above account and deliver to:

When this transaction has been completed, please send your required confirmation to the Treasurer of Virginia, P. O. Box 1879, Richmond, Virginia 23218-1879.

Sincerely,

(Depository Institution)

Approved: Treasury Board
Commonwealth of Virginia

By: _____

Date: _____

**COMMONWEALTH OF VIRGINIA
TREASURY BOARD**

**NOTICE OF ELECTION TO
REQUIRE SECURITY FOR PUBLIC DEPOSITS**

_____, 20____

Name of Bank

Street or P. O. Box

City State Zip

Notice is hereby given that effective _____, 20____, I _____
(Name of Officer)

_____ of _____
(Title of Office) (Location)

elect to require security pursuant to the Virginia Security for Public Deposits Act, Sec. 2.2-4400, *et seq.*,
Code of Virginia (1950), as amended, for all public funds held in my name in the accounts as listed
below and/or on the reverse side hereof. This election will remain in effect until rescinded by me or my
successor(s) in office.

_____ Name	_____ Number
_____ Name	_____ Number
_____ Name	_____ Number

Signature

I acknowledge receipt of the foregoing notice and will comply therewith as of _____
pursuant to the Virginia Security for Public Deposits Act. (Date)

Attest: _____
Bank

Title: _____ By: _____

I acknowledge receipt of the foregoing notice:

TREASURY BOARD OF VIRGINIA

By: _____

White-Local Treasurer
Canary-Bank Depository
Blue-Treasury Board
Green-Treasury Board Treasurer

Virginia Security for Public Deposits Act Regulations
Annual Audit Certification

- Period to be covered: The 12 months preceding the end of the depository's fiscal year.
For example, if December 31, 1997 was the close of a fiscal year, the certification must cover January 1, 1997 through December 31, 1997.
- Due Date: Due 10 business days after June 30th of the year immediately following the close of the fiscal year for the institution. For example, December 31, 1997 fiscal year close, due date of July 15, 1998.
- Who must certify: A public depository's independent CPA or internal audit department

In order to comply with the regulations, the agreed upon procedures should include but are not limited to the following:

Public Deposit Balances:

1. For all monthly reports and quarterly reports, verify the mathematical accuracy of the presented calculations.
2. Review and test the procedures for compiling the report from the internal financial records.
3. For the calculation of the average balance, ascertain the reasonableness of the methodology used.
4. Review all new Virginia accounts to determine whether the accounts are correctly included or excluded as public deposits. If the population of Virginia accounts is large (i.e. more than 30) select a representative sample for review.
5. Ensure that FDIC amounts are applied correctly especially when an entity has more than one account with your institution.

Other:

6. Review the signed Security for Public Deposit Agreement to ensure that all information is current and accurate.
7. Review the par and market value of pledged collateral to ensure proper application of the 80% calculation for all pooled securities.

**Virginia Security for Public Deposits Act Regulations
Annual Audit Certification**

Page 2

Reporting:

8. State period of review. "Bank's fiscal year ended _____."
9. Report should be addressed to the bank's management with Treasury Board receiving a copy.
10. Include the effect of any errors noted to include a description of the error, the dollar amount of the error and the impact on the collateral level maintained by the bank. For accounts which were incorrectly excluded from the report, include a list of the account name, account number and amount of the omission.
11. Determine and document the status of errors noted in previous audits.
12. Document in the report the Audit Standards followed in performing the above procedures.
13. Prepare an audit report to outline all procedures used and the findings related to each procedure. Submit a copy of the audit report to:

Department of the Treasury
Attn: Dorothy French
Post Office Box 1879
Richmond, VA 23218-1879